

REMARKS

I. Summary of the Office Action

The Final Office Action mailed August 12, 2009 (“the Office Action”) made the following objections and/or rejections, each of which is addressed in more detail below:

Claims 19-21, 23-27, and 29-38 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0004853 (“Ram”) and U.S. Patent Application Publication No. 2003/0115117 (“Sugimoto”).

Claims 22, 28, and 39-40 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ram, Sugimoto, and U.S. Patent Application Publication No. 2002/0059129 (“Kemp”).

II. Interview Summary

The Applicant thanks Examiner Pillai and Examiner Nguyen for the telephonic discussions on September 9 and September 22 (collectively, “the Interview”) with the Applicant’s representatives Monika Dudek and Adam Faier. The Applicant appreciates the Examiners’ time in discussing the present application and the related continuation application (Serial No. 11/417,512), the pending claims, the current rejections, and the cited art. The substance of the Interview, including any agreements, is reflected herein. Based on that discussion, the Applicant is submitting the present Response in order to advance prosecution.

During the Interview, after discussion of the cited art, both Examiner Pillai and Examiner Nguyen agreed that the proposed combination of Ram and Sugimoto does not disclose the features recited in the pending claims for reasons similar to those discussed in the previous Response.

In addition, the Rule 1.132 Declaration of Farley Owens (“the FO Dec”) was discussed. The Office Action stated at page 16 that the FO Dec was insufficient because it made statements without providing factual evidence of the statements. During the Interview, Examiner Pillai indicated that it may have been improper not to consider the FO Dec. As the Applicant explained, based on the Applicant’s understanding of MPEP 716 & 2145, the FO Dec itself provides factual evidence that the Examiner should have considered and additional evidence was not necessary. Consequently, the Applicant is re-submitting a copy of the FO Dec for the Examiner’s convenience so that it may be fully considered in this case.

III. Related Applications

The Applicant understands that the Examiner reviews the claims and prosecution history of related applications as they contain common subject matter. To this end, the Applicant reminds the Examiner that the present application is related through a common claim of priority to U.S. Patent Application Serial No. 11/417,512. The Applicant particularly draws the Examiner's attention to this case because it is a continuation of the present application and is before a different Examiner (Cao Nguyen).

In addition, for the purposes of the present application, the Applicant hereby rescinds any disclaimer of claim scope that may have been (or may be) made during the prosecution of any related application. The Applicant respectfully requests examination of the instant claims according to the claim language in light of the prior art without importing statements made by the Applicant in the prosecution of any related application.

IV. Status of the Claims

The present application includes claims 19-40.

V. Claim Rejections – 35 U.S.C. 103

The Applicant now turns to the rejection of claims 19-21, 23-27, and 29-38 under 35 U.S.C. 103(a) as being unpatentable over Ram and Sugimoto. As discussed above, during the Interview, it was agreed that the proposed combination of Ram and Sugimoto do not disclose the entirety of the features recited in the pending claims. In particular, the Applicant respectfully submits that the proposed combination fails to disclose at least the following features of independent claim 19:

- automatically updating the display on the graphical user interface upon receipt of the new market data, including:
 - updating the plurality of price levels; and
 - if by updating the plurality of price levels the price level would no longer correspond to the first location, but correspond to a second location, automatically displaying the cursor at the second location so that the cursor continues to correspond to the price level; and

- receiving a command from the user input device that sets an order price parameter for a trade order based on the price level even if at the time of selection there was receipt of new market data that causes an update of the display on the graphical user interface such that the price level no longer corresponds to the first location, but corresponds to the second location

Independent claim 34 recites similar features. Therefore, the Applicant respectfully submits that independent claims 19 and 34 should be allowable over the cited art of record for at least this reason. With respect to claims 20-21, 23-27, 29-33, and 35-38, these claims depend from independent claims 19 and 34. The Applicant respectfully submits that claims 20-21, 23-27, 29-33, and 35-38 should be allowed for at least the reason that they each depend from an allowable claim.

The Applicant now turns to the rejection of claims 22, 28, and 39-40 under 35 U.S.C. 103(a) as being unpatentable over Ram, Sugimoto, and Kemp. The Applicant respectfully submits that Kemp does not cure the deficiencies of Ram and Sugimoto discussed above. Therefore, the Applicant respectfully submits that independent claims 19 and 34 should be allowable over the proposed combination of Ram, Sugimoto, and Kemp as well for at least this reason. With respect to claims 22, 28, and 39-40, these claims depend from independent claims 19 and 34. The Applicant respectfully submits that claims 22, 28, and 39-40 should be allowed for at least the reason that they each depend from an allowable claim.

VI. Conclusion

In general, the Office Action made various statements regarding the pending claims and the cited art that are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to challenge such statements in the future should the need arise (for example, if such statements should become relevant by appearing in a rejection of any current or future claim).

All the stated grounds of objection and rejection have been respectfully traversed, accommodated, or rendered moot. The Applicant therefore submits that the present application is in condition for allowance. If the Examiner believes that further dialog would expedite

consideration of the application, the Examiner is invited to contact Trading Technologies in-house Patent Counsel Monika Dudek at 312-476-1118, or the undersigned attorney or agent.

Respectfully submitted,

Date: September 30, 2009

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